

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FLASHPOINT TECHNOLOGY, INC.,

Plaintiff,

V.

APITEK, INC., ARGUS CAMERA CO., LLC,
BUSHNELL INC., DXG TECHNOLOGY (U.S.A.)
INC., DXG TECHNOLOGY CORP., GENERAL
ELECTRIC CO., LEICA CAMERA AG, LEICA
CAMERA INC., MINOX GMBH, MINOX USA, INC.,
MUSTEK, INC. USA, MUSTEK, INC., OREGON
SCIENTIFIC, INC., POLAROID CORP., RITZ
INTERACTIVE, INC., RITZ CAMERA CENTERS,
INC., SAKAR INTERNATIONAL, INC., D/B/A
DIGITAL CONCEPTS, TABATA U.S.A., INC., D/B/A
SEA & SEA, TARGET CORP., VISTAQUEST CORP.,
VUPOINT SOLUTIONS, INC., WALGREEN CO., and
WAL-MART STORES, INC.,

Defendants

C.A. No. 08-139-GMS

JURY TRIAL DEMANDED

**PLAINTIFF’S REPLY TO RITZ CAMERA
CENTERS, INC.’S COUNTERCLAIMS**

Plaintiff FlashPoint Technology, Inc. (“FlashPoint”) hereby responds to each paragraph of Ritz Camera Centers, Inc.’s (“Ritz Camera”) Counterclaims as follows:

THE PARTIES

1. Upon information and belief, admitted.
2. Admitted.

JURISDICTION AND VENUE

3. Admitted that this action purports to arise under the Patent Laws of the

United States, 35 U.S.C. §100 *et seq.*, and the Declaratory Judgments Act, 28 U.S.C.

§§2201 and 2202, that an actual justiciable controversy exists between FlashPoint and

Ritz Camera regarding the validity of one or more of the patents-in-suit and the

{BMF-W0095375.}

infringement of one or more claims of the patents-in-suit, that FlashPoint is the legal owner of the patents-in-suit, and that this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§1331, 1338(a), 2201 and 2202, but otherwise denied.

4. Admitted.

COUNT ONE: NON-INFRINGEMENT OF THE '480 PATENT

5. FlashPoint incorporates the replies set forth in Paragraphs 1-4 above as if fully set forth herein.

6. Denied.

7. Admitted that Ritz Camera seeks a declaration from this Court that Ritz Camera does not infringe the '480 patent, but otherwise denied.

COUNT TWO: INVALIDITY OF THE '480 PATENT

8. FlashPoint incorporates the replies set forth in Paragraphs 1-7 above as if fully set forth herein.

9. Denied.

10. Admitted that Ritz Camera seeks a declaration from this Court that the claims of the '480 patent are invalid, but otherwise denied.

COUNT THREE: NON-INFRINGEMENT OF THE '956 PATENT

11. FlashPoint incorporates the replies set forth in Paragraphs 1-10 above as if fully set forth herein.

12. Denied.

13. Admitted that Ritz Camera seeks a declaration from this Court that Ritz Camera does not infringe the '956 patent, but otherwise denied.

COUNT FOUR: INVALIDITY OF THE '956 PATENT

14. FlashPoint incorporates the replies set forth in Paragraphs 1-13 above as if fully set forth herein.

15. Denied.

16. Admitted that Ritz Camera seeks a declaration from this Court that the claims of the '956 patent are invalid, but otherwise denied.

COUNT FIVE: NON-INFRINGEMENT OF THE '538 PATENT

17. FlashPoint incorporates the replies set forth in Paragraphs 1-16 above as if fully set forth herein.

18. Denied.

19. Admitted that Ritz Camera seeks a declaration from this Court that Ritz Camera does not infringe the '538 patent, but otherwise denied.

COUNT SIX: INVALIDITY OF THE '538 PATENT

20. FlashPoint incorporates by reference the replies set forth in Paragraphs 1-19 above as if fully set forth herein.

21. Denied.

22. Admitted that Ritz Camera seeks a declaration from this Court that the claims of the '538 patent are invalid, but otherwise denied.

COUNT SEVEN: NON-INFRINGEMENT OF THE '190 PATENT

23. FlashPoint incorporates the replies set forth in Paragraphs 1-23 above as if fully set forth herein.

24. Denied.

25. Admitted that Ritz Camera seeks a declaration from this Court that Ritz Camera does not infringe the '190 patent, but otherwise denied.

COUNT EIGHT: INVALIDITY OF THE '190 PATENT

26. FlashPoint incorporates the replies set forth in Paragraphs 1-25 above as if fully set forth herein.

27. Denied.

28. Admitted that Ritz Camera seeks a declaration from this Court that the claims of the '190 patent are invalid, but otherwise denied.

COUNT NINE: NON-INFRINGEMENT OF THE '316 PATENT

29. FlashPoint incorporates the replies set forth in Paragraphs 1-28 above as if fully set forth herein.

30. Denied.

31. Admitted that Ritz Camera seeks a declaration from this Court that Ritz Camera does not infringe the '316 patent, but otherwise denied.

COUNT TEN: INVALIDITY OF THE '316 PATENT

32. FlashPoint incorporates the replies set forth in Paragraphs 1-31 above as if fully set forth herein.

33. Denied.

34. Admitted that Ritz Camera seeks a declaration from this Court that the claims of the '316 patent are invalid, but otherwise denied.

COUNT ELEVEN: NON-INFRINGEMENT OF THE '914 PATENT

35. FlashPoint incorporates the replies set forth in Paragraphs 1-35 above as if fully set forth herein.

36. Although FlashPoint is still investigating this matter, FlashPoint does not presently allege that Ritz Camera infringes, contributes to the infringement of, or actively induces others to infringe, any claim of the '914 patent.

37. FlashPoint does not presently assert that any claim of the '914 patent is infringed by Ritz Camera.

COUNT TWELVE: INVALIDITY OF THE '914 PATENT

38. FlashPoint incorporates the replies set forth in Paragraphs 1-37 above as if fully set forth herein.

39. Denied.

40. Admitted that Ritz Camera seeks a declaration from this Court that the claims of the '914 patent are invalid, but otherwise denied.

COUNT THIRTEEN: NON-INFRINGEMENT OF THE '575 PATENT

41. FlashPoint incorporates the replies set forth in Paragraphs 1-40 above as if fully set forth herein.

42. Denied.

43. Admitted that Ritz Camera seeks a declaration from this Court that Ritz Camera does not infringe the '575 patent, but otherwise denied.

COUNT FOURTEEN: INVALIDITY OF THE '575 PATENT

44. FlashPoint incorporates the replies set forth in Paragraphs 1-43 above as if fully set forth herein.

45. Denied.

46. Admitted that Ritz Camera seeks a declaration from this Court that the claims of the '575 patent are invalid, but otherwise denied.

DEMAND FOR JURY TRIAL

47. No response to Paragraph 47 is required.

PRAYER FOR RELIEF

In addition to the relief requested in Plaintiff's Original Complaint, Plaintiff respectfully requests a judgment against Ritz Camera as follows:

- A. That Ritz Camera takes nothing by its Counterclaims;
- B. That the Court award Plaintiff costs and attorneys' fees incurred in defending against these Counterclaims; and
- C. Any and all further relief for Plaintiff as the Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues.

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Dated: May 20, 2008

/s/ Evan O. Williford

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CERTIFICATE OF SERVICE

I, Evan O. Williford, hereby certify that on May 20, 2008, I caused to be electronically filed a true and correct copy of the foregoing document – **Plaintiff's Reply to Ritz Camera Centers, Inc.'s Counterclaims** – with the Clerk of Court using CM/ECF which will send notification of such filing to the following local counsel for defendants:

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I further certify that on May 20, 2008, I caused a copy of the foregoing document to be served on the following defendants by First Class Mail:

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Deerfield, IL 60015

Minox USA Inc.
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